

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)	
)	CG Docket No. 17-59
Advanced Methods to Target and Eliminate)	
Unlawful Robocalls)	FCC 17-24
)	

Reply Comments of Professional Association for Customer Engagement

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I. Introduction

The Professional Association for Customer Engagement (“PACE”)¹ respectfully submits these Reply Comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) above-cited Notice of Proposed Rulemaking and Notice of Inquiry (“NPRM/NOI”) regarding the imposition of rules allowing carriers to refuse or “block” calls from telephone numbers in various circumstances.² PACE urges the FCC to define the types of calls it considers “spoofed” or “illegal robocalls” before issuing any regulations permitting blocking or screening of calls on such a basis.

II. Need for Definite Terms

The Commission’s NPRM/NOI seeks to reduce or eliminate “illegal robocalls” including calls that use a “spoofed” phone number. At this time, the Commission has not promulgated clear definitions of either term. PACE offers the following definitions for the Commission’s consideration.

The FCC should define an “illegal robocall” as a call made using a synthetic or prerecorded voice and an automatic telephone dialing system (“ATDS”) with the intent to defraud, cause harm or wrongfully obtain anything of value. This definition borrows the standard utilized by the Truth in Caller ID Act³ and recognizes that bad actors are the target of the Commission’s efforts. Some may ask that a call made using an ATDS in violation of the Telephone Consumer Protection Act and its implementing regulations and agency interpretations (collectively, “TCPA”) should be deemed an “illegal robocall.” Determining whether a call is made in violation of the TCPA is an incredibly fact-intensive inquiry based on by the relationship and course of dealing between the caller and each individual call recipient. By narrowing the definition of “illegal robocall” to fraudulent or harmful calls, the inquiry is limited to the caller’s actions and motives requiring relatively minimal inquiry into the relationship between caller and called party. Consequently, the

¹ PACE is the only non-profit trade organization dedicated exclusively to the advancement of companies that use a multi-channel approach to engaging their customers, both business-to-business and business-to-consumer. These channels include contact centers, email, chat, social media, web and text. Our membership is made up of Fortune 500 companies, contact centers, BPO’s, economic development organizations and technology suppliers that enable companies to contact or enhance contact with their customers.

² PACE previously filed comments in this proceeding on July 3, 2017.

³ See 47 U.S.C. § 227(e)(1) (“It shall be unlawful for any person within the United States, in connection with any telecommunications service or IP-enabled voice service, to cause any caller identification service to knowingly transmit misleading or inaccurate caller identification information with the intent to defraud, cause harm, or wrongfully obtain anything of value . . .”).

Commission will be able to better target its resources to seek out the true bad actors with reduced collateral impact on legitimate callers.

Likewise, the FCC should define a “spoofed” call as a call indicating a caller ID number for display other than a number assigned to that call originator by a service provider and made with the intent to defraud, cause harm, or wrongfully obtain anything of value. Many legitimate reasons exist for a caller to substitute different caller ID information for a call. By way of example:

- A business may want all inbound customer service calls to come to one number, so it displays one customer service number on outbound calls regardless of the operations center making the call.
- A doctor’s office may want to display a number that is unlisted to help protect the privacy of its patients.
- A domestic violence shelter may want to display a different number to allow its residents to call family without fear that the call will be traced back to the victim’s location by an abuser.

These are just a few of the ways caller ID substitution can be legitimately used by callers to better serve and protect consumers. Through a definition of spoofing limited to fraudulent or harmful purposes, the Commission will preserve this valuable feature of IP-based systems while maintaining enforcement capability against true scammers.⁴

PACE’s concern regarding use of the terms “illegal robocall” and “spoofing” without clear and narrow definitions is backed up by other comments filed in this proceeding. Neustar, for example, used both “spoofing” and “illegal spoofing” in reference to potentially illegal activities.⁵

⁴ The NPRM/NOI also identified the SHAKEN & STIR authentication protocols as a potential means of reducing the impact of spoofing by allowing carriers to cryptographically authenticate calls. PACE reiterates that the Commission’s focus should be on working with industry to develop protocols that authenticate originating IP addresses and/or gateways rather than specific IP packets. By focusing on address/gateway authentication, the protocols may be implemented in a way that resolves Commissioner O’Rielly’s concerns expressed in a recent NOI in W.C. Docket No. 17-97. *See* Statement of Commissioner O’Rielly, In the Matter of Call Authentication Trust Anchor, Notice of Inquiry, W.C. Docket No. 17-97 (filed July 14, 2017) at 2 (“Operationally, I am a bit puzzled how this structure would actually work in relation to the authentication that already exists for data packets, which was initiated without FCC or other government involvement. For data packets that contain voice would there be some extra certification and authentication structure separate from that applicable to all other data packets?”).

⁵ *See* Comments of Neustar, Inc., C.G. Docket No. 17-59 (filed July 3, 2017) at 3 (“Consumers get annoyed at the time they waste answering unwanted calls and lose hundreds of millions of dollars every year to fraud enabled by illegal robocalling and Caller ID spoofing.”) and 5 (“Although provider-initiated (or network) blocking is an important tool to combatting robocalling, this tool should be permitted only in circumstances when it can be objectively determined that a call is an illegal robocall or has been illegally spoofed.”).

Noble Systems Corporation demonstrated the need for clear terminology by pointing out inconsistent usage of the term “robocall” by the Commission.⁶ Comcast also highlighted the need for a narrower definition of “illegal robocall” by raising the concern that a definition which includes any call that violates the TCPA “likely would prove to be unadministrable.”⁷ Clear and workable definitions are needed to ensure that all stakeholders and the Commission are communicating about and developing tools to combat the most pressing issues.

III. Conclusion

For the foregoing reasons, the Commission should endeavor to establish specific definitions for the terms “illegal robocall” and “spoofing” that focus on fraudulent and harmful conduct. Clear definitions are needed to ensure accurate discussions amongst stakeholders, efficient development of tools to combat bad actors, and deployment of resources to tackle bad actors scams with minimal collateral impact on legitimate callers.

Respectfully submitted,

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⁶ See Comments of Noble Systems Corporation, C.G. Docket No. 17-59 (filed July 3, 2017) at 2 (“Noble Systems also continues to object to the FCC’s usage of the term “robocall,” as this term has different meanings among different groups, and cannot be redefined at this point without causing further confusion. For instance, the FCC has defined the term ‘robocall’ different in various proceedings involving call blocking and as a result, has furthered the confusion as to which calls are to be the focus of call blocking.”).

⁷ See Comments of Comcast Corporation, C.G. Docket No. 17-59 (filed July 3, 2017) at fn. 17.